IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.746 OF 2006

Dr.Mrs.Uma Singh ..Petitioner

Vs.

The Burhani Education Society
C/o. Burhani College of Commerce and
Arts, Mumbai and Ors. ..Respondents

Mr.Nusrat Shah with Mrs.Pervin Contractor, Mrs.Sanika G., Mrs.Rupali Kadam and Ms.S. Sayed i/b Q.M.Ashfaq for the petitioner

Mr.Sudhir Sakhardande a/w Mr.D.T.Mandviwalla for the respondent no.1 and 2

Mr.B.V.Phadnis for hte respondent no.3

CORAM : S.U.KAMDAR, J
DATED : 27TH MARCH, 2006

P.C.:

1. The present petition is challenging the order passed by the College Tribunal dt.31.3.05. The College Tribunal has upheld the finding of the Enquiry Officer and upheld the punishment awarded by the Management except to the extent that in place of dismissal punishment penalty of compulsory retirement is given w.e.f.15.10.03 and the

respondents are directed to pay the back wages due to the petitioner herein with the benefit of continuity of service.

2. The only ground on which the impugned order is sought to be challenged is that in the middle of enquiry proceeding there was a gap of 32 months and no Enquiry Officer was appointed in place of earlier Enquiry Officer Ms.Ayesha Damania. However, it is an admitted position that on the resumption of enquiry, a notice was given to the petitioner to participate therein but the petitioner refused to participate in the enquiry proceedings. The learned counsel for the petitioner has contended that the enquiry is conducted in a vindictive manner by the management. However, there is no material or any evidence produced to indicate that thee is any such vindictiveness. On perusal of the impugned order it is clear that all aspects of the enquiry has been taken into consideration while passing the impugned order. Even the College Tribunal has given a detailed reasoning to show that the charges levelled against the petitioner are proved.

3. In that light of the matter, it is not possible or permissible to interfere with the finding of facts given by the Enquiry Officer and upheld by the College Tribunal in writ Jurisdiction under Article 226 of the Constitution of India. In view thereof petition fails and dismissed accordingly.

4. The learned counsel for the management says that all the dues as per the direction passed by the College Tribunal be paid within 4 weeks from today.